

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KEITH POOLER,

Plaintiff,

-against-

**REPORT
AND RECOMMENDATION**
CV 10-482 (JFB)(ARL)

HEMPSTEAD POLICE DEPARTMENT, et al.,

Defendants.

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LINDSAY, Magistrate Judge:

The court is in receipt of the plaintiff's revised motion to amend the pleadings, motion to dismiss and revised narrative statement. On September 8, 2010, the plaintiff filed a package of documents with the court, which he entitled "Motion to Amend the Pleading," "Motion to Dismiss and Summary Judgment," and "Narrative #2 of Revised Facts." Upon receipt, and finding that the filings were unclear, Judge Bianco referred the submission to the undersigned. By order dated September 16, 2010, the undersigned accepted the plaintiff's revised narrative for filing and directed him to prepare a proposed amended complaint and provide it to the defendants for their review. The first page of the plaintiff's renewed motion contains the language that the plaintiff wishes to add to his complaint but there is not indication that it has been provided to counsel for the defendants. The plaintiff is directed to first provide the additional language to the defendants for their review. The plaintiff can then renew his motion to amend indicating whether or not the defendants consent to the additional language.

The plaintiff has also revised his motion to dismiss. In doing so, the plaintiff has clarified that he seeks to have this court dismiss his criminal case. The court does not have jurisdiction over Mr. Pooler's state court action. Accordingly, the court recommends that the plaintiff's request to dismiss his criminal action be denied.

A copy of this Report and Recommendation is being electronically filed on the date below. Counsel for plaintiffs shall serve a copy of it on the defendant upon receipt and shall file proof of service with the court. Any objections to this Report and Recommendation must be filed with the Clerk of the Court with a courtesy copy to the undersigned within 14 days of service. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
October 12, 2010

/s/
ARLENE R. LINDSAY
United States Magistrate Judge